

**Town of North Smithfield Planning Board
Kendall Dean School, 83 Green Street
Thursday, September 16, 2010, 7:00 PM**

The Chair called the meeting to order at 7:13 pm.

1. Roll Call

Present: Chair Scott Gibbs, Dean Naylor, Gene Simone, Art Bassett.

Absent: Alex Biliouris, Stephen Vowels, Joe Cardello. Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.

2. Approval of Minutes: September 2, 2010

Mr. Naylor made a motion to approve the minutes of September 2, 2010, as amended. Mr. Simone seconded the motion, with all in favor.

3. Wind ordinance: Joint meeting with the ORC to review differences

Ordinance Review Committee members (Mr. Marcantonio, Mr. Juhr, Mr. Nault, Mr. Puccetti, Mr. Soares, and Dr. Brennan) joined the Planning Board to discuss revisions to the wind ordinance to be submitted to the Town Council.

All members of both the Planning Board and the ORC had copies of

the most current draft of the wind ordinance. Mr. Juhz explained that most of the proposed ordinance is taken from Middletown's ordinance, but that many other ordinances were reviewed, with the best parts taken from each one. The main issues to be discussed are fall zone, noise, and wildlife (particularly bats).

After discussion, the Planning Board Chair stated that the Planning Board would compromise on a fall zone of 1.5 times the height of the structure. The ORC wanted to have a larger fall zone and the Planner said it could be much smaller. Both Boards agreed that 1.5 was a defensible number and that there is always the option to apply for a dimensional variance.

With regard to noise, the board discussed making the language clearer. They finally decided to go with the language from a document written by the New York State Energy Research and Development Authority, which puts the noise limit at 55 dba. They also discussed how this will be enforced. Mr. Marcantonio stated that the engineer will work it in during the development and planning approval process. Mr. Ericson also stated that the Town should invest in some dba meters, since they cost about \$150 each.

On the issue of wildlife, Mr. Soares stated that the ordinance should include an impact statement, with particular attention paid to bats and birds. This is addressed in the Middletown ordinance, so similar language will be included.

Both boards agreed that the document was ready to be submitted to the Town Council for public review. Mr. Soares stated that he will attend the Town Council meeting to convey the agreement.

4. Twin Realty (The Blunders)

Request for the right to sell Lots 1 and 15 in exchange for giving up the right to sell Lots 8, 9 and 17 fronting Greenville Road

Applicant: Ed Iannone

Mr. Ericson gave a quick summary of the history of the project, then informed the Board that the applicant, Ed Iannone, is requesting that he be able to sell Lots 1 & 15 instead of Lots 8, 9, & 17. He has a buyer currently interested in purchasing Lots 1 & 15, and in light of the current economy, Mr. Ericson is not against this request. Pare Engineering has inspected the site. The cisterns are not in yet, but the detention system is functional. Mr. Ericson suggested that the Town work out an agreement with Mr. Iannone, in which a portion of the proceeds from the sale of the property go into an escrow fund for completion of the development, including the roads and drainage system. There is the long term concern on proper completion of the top coat on the road. Mr. Ericson also asked the Board to consider if they would allow similar exchanges to be handled administratively in the event that another potential buyer is found for other lots in the development.

The Chair stated that he does advocate working on an agreement with the applicant in which a portion of a lot sale would be held in an escrow account. He added that he would not want to grant the Planner administrative approval going forth. Mr. Ericson stated that he would have Pare investigate and come up with a dollar amount for what needs to be completed. Mr. Iannone stated that potential buyer for Lots 8, 9, & 17 turned out to not be a viable buyer. He stated that he would like to avoid having to come back before the Board for each lot. He stated that the project is being completed and there is interest from buyers. He does not want to scare away potential buyers. He also asked that the Board specify what the money in the escrow account is to be used for. He stated that the cisterns will be done in a week, followed by light posts, sidewalks, and paving. He added that since it's his property, he will be liable if the work is not completed. The Chair stated that he understands Mr. Iannone's point, but in reality, the Town can be held liable for work that is not completed. He agreed that there are logistics to be worked out on how to structure the escrow.

Mr. Ericson stated that Pare has determined that the applicant could start selling the lots, but they have not quantified the amount of work left. Mr. Ericson suggested that the applicant put the proceeds from the sales into a bond. Mr. Nadeau stated that neither a bond nor an escrow deal is a great option, but a bond would be preferable from a financial standpoint, though it could take more time. Mr. Iannone stated that bonding is very difficult at this time, but with the amount

of money he has invested in the project, he will do it if necessary. The Chair suggested that Pare quantifies the amount of work, and that amount will be taken from the money the applicant receives from its first sale and be placed into escrow. The applicant can then pull money from that escrow account to complete the work that Pare has identified and quantified. Mr. Iannone agreed that this would work. Mr. Nadeau stated that there should be some cushion for Pare's fees included in the escrow so the Town is not liable for those fees. He also suggested that work be inspected by Pare before escrow funds are released.

The Chair stated that with Pare identifying the remaining work, money in escrow to cover the work and Pare's fees, and with Pare inspecting work before money is released from the escrow account, he is comfortable enough with this structure to give the Planner administrative approval. The Board and Mr. Ericson discussed having Mr. Nadeau help write up the agreement on the structure of the escrow account, release of fee, etc. Mr. Nadeau stated that this is not included in his scope of duties for the Town, so those fees should be paid by the applicant as well. The Chair also stated that he prefers to have 100% of the scope of remaining work put into escrow, not spread out over sales of multiple lots. Mr. Nadeau stated that the escrow funds would be used for anything expensed and planned out by Pare.

The Chair made a motion that an agreement be structured between

Twin Realty and the Town of North Smithfield which will result in the establishment of an escrow account for the remainder of the work to be completed, as defined by Pare Engineering, and once an agreement is reached, Mr. Ericson will have administrative approval. Mr. Naylor seconded the motion. Planning Board vote was as follows: AYE: Mr. Gibbs, Mr. Naylor, Mr. Simone, Mr. Bassett. Motion passed, with a vote of 4-0.

5. Minor Subdivision Pre-application

Applicant: Gerald & Christine Berthelette

Location: Middle Street and Mendon Road, Assessor's Plat 3, Lot 286

Zoning: RU-20

Attorney Eric Brainsky was present for the applicant. He stated that though the agenda states that this is a minor subdivision pre-application, it will be a major subdivision, since it requires a dimensional variance. He then gave a brief summary of the request. The Berthelettes own 3.6 acres and have owned the land for 15 years. The parcel is an odd shape, with a finger on the westerly side of the lot. There is an access easement to the neighboring property. The applicant is seeking to subdivide the property. They have appeared before the Board previously. The land is big enough that it could handle six lots, but the applicant is seeking to subdivide the land into two lots. The preexisting shape of the lot does not leave enough frontage on proposed lot 1. They will need a 62' frontage variance. They are proposing a private gravel drive to service the neighbor and

Lot 1. The will construct a cul-de-sac or whatever is deemed necessary to provide access for emergency vehicles. Lot 2 will be fully conforming to the regulations. The applicant is also looking to bring sewers in to the property, as well as the neighboring preexisting landlocked property.

The Chair asked if the right of way will be on the applicant's land. Mr. Brainsky replied that it will be. Mr. Ericson commented that he would like to see a site plan that shows the position of the proposed house on the new lot, so that the Board can be sure it will not be further subdivided. He also suggested creating a landlocked lot as a conservation easement, which will prevent future subdivision of the land. Mrs. Berthelette stated that she has no interest in subdividing the land again in the future. The Chair discussed the request with the Board and though there was no vote taken, he told the applicant that based on what was presented this evening; the applicant could assume that they would get a positive recommendation from the Board on the dimensional variance.

6. Parking and loading ordinance: Continued review

Mr. Ericson stated that the Board will discuss the parking and loading ordinance, as well as the subdivision regulations at the next meeting.

The Chair asked about the current status of the Town's comprehensive plan. Mr. Ericson stated that it not complete. There is

an energy component to be added and 63 parcels to be rezoned. It is currently approved by the Town, but not the state. The Chair suggested that state approval be made a priority. Mr. Ericson stated that there is no downside in not having state approval.

Mr. Bassett made a motion to adjourn at 8:57 pm. Mr. Simone seconded the motion, with all in favor.